

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.1262/Hyd/2024
(निर्धारण वर्ष/ Assessment Year: 2017-18)

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| Primary Agricultural Cooperative Society Limited, Chinna Golkonda, Hyderabad. PAN : AABAP8135B | Income Tax Officer, Ward – 8(1), Hyderabad. |
| (अपीलार्थी/ Appellant) | (प्रत्यर्थी/ Respondent) |

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| करदाता का प्रतिनिधित्व/ Assessee Represented by | : | Mrs. S. Sandhya |
| राजस्व का प्रतिनिधित्व/ Department Represented by | : | Shri B. Bala Krishna – CIT-DR |
| सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing | : | 19.03.2025 |
| घोषणा की तारीख/Date of Pronouncement | : | 28.04.2025 |

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee society is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated

13.09.2024, which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 144 of the Income Tax Act, 1961 (for short "the Act") dated 04.12.2019 for A.Y. 2017-18. The assessee society has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.
2. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous as the Hon'ble CIT (Appeals) did not issue any notice before rejecting the condonation of delay. The CIT (Appeals) is not justified in passing the appellate order without providing opportunity to the appellant.
3. The learned Commissioner of Income-Tax (Appeals) erred in not considering the grounds agitated by the appellant and in dismissing the appeal in limine
4. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the appellant is a Co-operative Credit Society whose income is exempt u/s 80P of the I.T. Act and, therefore, no return of income was filed as the assessee was not filing any returns earlier.
5. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the appellant had no assessments earlier and, therefore, ought to have considered the facts of the case and condoned the delay.
6. The learned Commissioner of Income-Tax (Appeals) deemed to have condoned the delay when he issued a notice of hearing u/s 250 of the I.T. Act for submissions of written explanations against the grounds agitated by the appellant.
7. The learned Commissioner of Income-Tax (Appeals) ought to have considered the grounds agitated by the appellant along with the statement of facts annexed to Form No.35 filed before the Honorable CIT(Appeals).”

2. Mrs. S. Sandhya, the learned Authorized Representative (for short the “ld. AR”) for the assessee society, at the threshold of hearing of the appeal, submitted that the present appeal involved a delay of four days. Elaborating on the reasons leading to the delay, the ld. AR had taken us through an application filed by the assessee seeking condonation of the delay an “affidavit” dated 03-02-2025 filed in support thereof. The ld.AR submitted that during the relevant period, i.e. the end of November 2024, the concerned officials of the assessee society were involved in compilation of data which was to be presented and discussed in the Managing Committee meeting of the assessee society that was scheduled for 02.12.2024. The ld. AR submitted that as the Chief Executive Officer of the assessee society for the aforesaid reason was not available, therefore, he had only after consulting the advocate on 03.12.2024 got the appeal prepared and filed the same before the Tribunal. The ld. AR submitted that as the delay of four days, which is not inordinate, had occasioned due to bona fide reasons, therefore the same in all fairness be condoned.

3. Per contra, Shri B. Bala Krishna, the learned Departmental Representative (for short the “Ld. DR”) did not object to the seeking of the condonation of the delay involved in filing of the present appeal.

4. We have thoughtfully considered the reasons leading to the delay in filing of the present appeal, and considering the fact that the same is not inordinate condone the same.

5. Succinctly stated, the A.O. on the basis of data analysis and the information gathered during the phase of online verification under “Operation Clean Money”, observed that though the assessee society had during the subject year deposited substantial cash aggregating to Rs.2,35,96,500/- but had not filed its return of income for the year under consideration, thus issued notice u/s 142(1) of the Act and called upon it to file its return of income for the said year. As the assessee society despite persistent notices issued u/s 142(1) of the Act, failed to comply with the same, therefore, the A.O. was constrained to proceed with and frame the assessment to the best of his judgment under Section 144 of the Act.

6. During the course of assessment proceedings, the A.O. issued a notice under Section 133(6) of the Act to the banks in which the assessee society held its accounts. Ostensibly, the banks shared with the A.O., the complete details of the cash deposits and credit entries appearing in the bank accounts of the assessee society, which for the sake of clarity are culled out as under:

| Sl. No. | Name of bank & branch | Branch | Account no. | Cash deposit during Demonetization | Total credit (including cash deposited during demonetization period) from 01.04.2016 to 31.03.2017 |
|---------|--|-------------------|------------------------|------------------------------------|--|
| 1 | Hyderabad Dist. Central Co-op. Bank | Shamshabad | 152720050000002 | Rs.75,20,500/- | Rs.4,43,81,481/ |

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|---|--|-------------------|------------------------|-------------------------|------------------------|
| 2 | Hyderabad Dist. Central Co-op. Bank | Shamshabad | 152722050000005 | Rs.1,23,00,000/- | Rs.6,33,93,477/ |
| 3 | Axis Bank | Shamshabad | 910010025579995 | Rs.37,76,000/- | Rs.38,32,902/- |

7. As the assessee society had failed to come forth with any explanation regarding the aforesaid cash deposits/credit entries in its bank accounts aggregating to Rs. 11,16,07,860/-, therefore, the A.O. was constrained to treat the same as having been sourced out of its unexplained money under Section 69A of the Act. Accordingly, the A.O. vide his order passed u/s 144 of the Act, dated 04.12.2019 determined the income of the assessee society at Rs. 11,16,07,860/-.

8. Aggrieved, the assessee society carried the matter in appeal before the CIT(A). The CIT(A), observed that though the appeal filed by the assessee society involved an inordinate delay of 1379 days, but as the assessee society had failed to come forth with any explanation regarding the reasons due to which the said appeal could not be filed within the prescribed period, therefore, he declined to condone the same in exercise of the powers vested with him under sub-section (3) of Section 249 of the Act. Accordingly, the CIT(A) dismissed the appeal as barred by limitation.

9. The assessee society being aggrieved with the order of CIT(A) has carried the matter in appeal before us.

10. We have heard the learned Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

11. Mrs. S. Sandhya, the learned Authorized Representative (for short the "ld.AR") for the assessee society, at the threshold of hearing of the appeal, submitted that the CIT(A) had grossly erred in law and the facts of the case in declining to condone the delay involved in filing the appeal before him. Elaborating further on her contention, the ld.AR submitted that the CIT(A) had erred in not putting the assessee to notice about the delay in filing the appeal before dismissing the same on account of limitation. It was submitted by her that the CIT(A) was obligated to have provided an opportunity to the assessee society before dismissing the appeal as barred by limitation.

12. Per contra, Shri B. Bala Krishna, the learned CIT-Departmental Representative (for short the "Ld. DR") supported

the order passed by the lower authorities. The Ld. DR submitted that as the delay involved in the appeal filed by the assessee society was inordinate, therefore, the CIT(A) had rightly declined to condone the same. Apart from that, the Ld. DR submitted that as the assessee society had not filed any application explaining the reasons leading to the delay involved in the appeal filed before the CIT(A), therefore, the latter had rightly refrained from condoning the same by exercising the discretion that was vested with him under sub-section (3) of Section of 249 of the Act. The Ld. DR further submitted that as the delay in filing the appeal before the CIT(A) was not only inordinate but also not backed by any explanation of the assessee society regarding the reason leading to the same, therefore no infirmity arises from the latter's order in declining to condone the same. The Ld. DR to support his aforesaid contention had relied upon the following case laws:

1. SRK Infracon (India) Pvt. Ltd Vs. ITO in ITA No.8/Hyd/2022.
- 2.CSK Realtors Ltd., Hyderabad Vs. ITO in ITA No.233/Hyd/2023.
3. Kancherla Medical Services Vs. DCIT in ITA No.229/Hyd/2023.

13. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives of both parties on the issue of delay involved in filing of the appeal before the CIT(A). Ostensibly, it transpires that though the appeal filed by the assessee society before the CIT(A), involved a delay of 1379 days, but it had not filed any application explaining the reasons that had resulted to the said delay with a request for condonation of the same. Before proceeding any further, we may herein observe that, as per sub-section (3) of Section 249 of the Act, the Commissioner of Appeals is vested with the discretion to admit the appeal after expiration of the stipulated period, if he is satisfied that the appellant had a sufficient cause for not presenting it within that period. For the sake of clarity, sub-section (3) of Section 249 is culled out as under :

(3) The Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.”

14. Ostensibly, the exercise of discretion on the part of the CIT(A) for condoning the delay involved in the appeal filed before him pre-

supposes the satisfaction on his part that the appellant had a sufficient cause for not presenting it within the prescribed period. However, in the present case before us, we find that not only the delay of 1379 days involved in filing of the present appeal before the CIT(A) was inordinate, but also the assessee society had not filed any application explaining the reason as to why the said delay had crept in with a request seeking condonation of the same. We are unable to persuade ourselves to concur with the ld. AR that it was for the CIT(A), who was obligated to have put the assessee society to notice about the delay involved in the appeal filed by it before dismissing the same on the ground of limitation. As the assessee society had failed to come forth with any explanation before the CIT(A) qua the inordinate delay of 1379 days involved in filing the appeal before him, we find no infirmity in the view taken by him, wherein he had in the absence of any such explanation declined to condone the same. We thus, in terms of our aforesaid observations, finding no infirmity in the view taken by the CIT(A), uphold his order.

15. Resultantly, the appeal filed by the assessee society is dismissed.

Order pronounced in the Open Court on 28th April, 2025.

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| Sd/- (श्री मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER | Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER |
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Hyderabad, dated 28.04.2025.

##TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

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| 1. | निर्धारिती/The Assessee | : | Primary Agricultural Cooperative Society Limited, Chinna Golkonda, 1-4/1, Chinna Golkonda, Via Shamshabad, Ranga Reddy District – 50218, Telangana. |
| 2. | राजस्व/ The Revenue | : | Income Tax Officer, Ward – 8(1), Hyderabad. |
| 3. | The Principal Commissioner of Income Tax, Hyderabad. | | |
| 4. | विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad | | |
| 5. | गार्डफ़ाईल / Guard file | | |

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad